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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/997,652      | 11/29/2001  | Naoto Ohashi         | SHC0160             | 7387             |

35684 7590 01/19/2005

BUTZEL LONG  
350 SOUTH MAIN STREET  
SUITE 300  
ANN ARBOR, MI 48104

EXAMINER

REICHLER, KARIN M

|          |              |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

3761

DATE MAILED: 01/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                                      |                                      |  |
|------------------------------|--------------------------------------|--------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>09/997,652 | <b>Applicant(s)</b><br>OHASHI ET AL. |  |
|                              | <b>Examiner</b><br>Karin M. Reichle  | <b>Art Unit</b><br>3761              |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2004 and 02 November 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 November 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10-26-04</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Specification***

### ***Drawings***

1. The drawings were received on 11-2-04. These drawings are accepted by the Examiner.
2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the invention as claimed in claims 1-8, i.e. see discussion in paragraphs 5-8 *infra* with regard to the subject matter now regarded as claimed and the Figures still do not show a detachably fixed absorbent member and cover member as claimed in claim 8, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement

Art Unit: 3761

Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The Examiner’s remarks with regard to claim 8 on page 3, lines 16-18 of the 2-11-04 Action are reiterated.

### ***Description***

3. The substitute specification filed 5-18-04 has been entered.
4. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: positive antecedent basis for “a first segment” and “a second segment” and “a longitudinal center of the crotch portion” as claimed in claim 1 should be set forth.

### ***Claim Rejections - 35 USC § 112***

5. Claims 1-8 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 1 now requires a first segment and a second segment which extend into the front end portion and rear end portion, respectively. While the originally filed Figures disclosed a first segment and second segment extending into the front and rear waist regions, respectively,

Art Unit: 3761

they do not show the segments extending into the front and rear end portions which are disclosed as 26 and 27, see Figures. Also, note the last three lines of claim 1 and the rejection in paragraph 6, *infra*.

6. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regard to claim 1, a positive structural antecedent basis for “the crotch portion” on line 16 should be set forth. Also, it is unclear what the length of the said at least one groove is, i.e. the language on lines 12-14 define segments, i.e. the said at least one groove, which extend into the end portions, respectively, whereas the last three lines of claim 1 define the said at least one groove, i.e. the segments, as extending short of each of the end portions, i.e. does not extend into the end portions. In regard to claims 1 and 3, what is the required claim structure of the said at least one groove, i.e. the said one groove in claim 1 is described as consisting of two segments which are longitudinally aligned which is not consistent with the description in claim 3 of the said at least one groove as comprising at least one first groove extending in the longitudinal direction and at least one second groove intersecting and orthogonal to the at least one first groove, i.e. claim 3 does not limit the said at least one groove to first and second segments as set forth in claim 1?

#### ***Claim Language Interpretation***

7. With regard to claim 6, this claim is interpreted as requiring the backsheet to be formed with the claimed grooves (It is noted this claim would be in better form if on line 2,

Art Unit: 3761

“formed” were amended as --which is also formed--). Claim 1 now recites the at least one groove being excluded from extending across a longitudinal center of the crotch portion of the diaper. “Excluded” is interpreted as not being present. While a crotch region 8 has been described, such terminology has not been specifically defined relative to that region textually or pictorially, see paragraph 4 supra. Therefore such terminology will be interpreted to be defined as the longitudinal centerline of the crotch portion. It is noted that claim 1 would be in better form if on lines 12 and 15, “each...of” were amended as --each--.

***Allowable Subject Matter***

8. In light of MPEP 2163.06, the invention is considered a diaper as claimed on lines 1-12 of claim 1, each said a least one groove consisting of first and second segments that extend into the crotch region and front and rear end portions, respectively, but do not cross the longitudinal center line of the crotch portion but are longitudinally aligned with each other, i.e. the two segments of each groove are discontinuous with each other, as claimed on lines 12-17 of claim 1, and the diaper as claimed on the last three lines of claim 1, as best understood, see discussion supra in paragraphs 4-7. The prior art, alone or in any combination, does not teach such a diaper. It is noted however that the prior art of record does teach discontinuous, longitudinally aligned segments making up grooves which do not extend into the end portions and do not extend across the longitudinal center line of a crotch portion.

***Response to Arguments***

9. Applicant's remarks have been considered but are either deemed moot in that the issue has not been reraised or deemed not persuasive for the reason set forth supra.

***Conclusion***

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any new grounds of rejection were necessitated by the amendments to claims 1 and 3.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karin M. Reichle whose telephone number is (571) 272-4936. The examiner can normally be reached on Monday-Thursday.

Art Unit: 3761

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Schwartz can be reached on (571) 272-4390. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Karin M. Reichle  
Primary Examiner  
Art Unit 3761

KMR  
January 17, 2005